

HOUSE BILL REPORT

HB 1339

As Passed House:
February 9, 2015

Title: An act relating to allowing the secretary of health to intercede and stay any decision of a disciplining authority that expands scope of practice.

Brief Description: Allowing the secretary of health to intercede and stay any decision of a disciplining authority that expands scope of practice.

Sponsors: Representatives Cody, Schmick, Riccelli, Jinkins, Harris, Tharinger, Moeller and Wylie.

Brief History:

Committee Activity:

Health Care & Wellness: 1/28/15, 1/30/15 [DP].

Floor Activity:

Passed House: 2/9/15, 88-8.

Brief Summary of Bill

- Allows the Secretary of Health to stay an action of a disciplining authority if he or she determines that the action has expanded the scope of practice of a health profession.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 14 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Jinkins, Johnson, Moeller, Robinson, Rodne, Short and Tharinger.

Staff: Jim Morishima (786-7191).

Background:

The scope of practice of each health profession is established in statute. Individual disciplining authorities may engage in activities that interpret or implement a health

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profession's statutory scope of practice, including rule making, policy or interpretive statements, declarative orders, practice guidelines, and formal disciplinary action.

Summary of Bill:

The Secretary of Health (Secretary) may, on his or her own initiative, or at the behest of one of the chairs of the House of Representatives and Senate health care committees, make a determination as to whether a disciplining authority has impermissibly expanded the scope of practice of a health profession. The Secretary may make this determination in connection with rule making, interpretive statements, policy statements, declarative orders, practice guidelines, decisions in formal disciplinary actions, and other declarations.

When determining whether a disciplining authority has expanded a profession's scope of practice, the Secretary must consider:

- the plain language in the statute;
- the education and training required to perform the procedure or task;
- the education and training commonly received by members of the profession;
- the extent to which the expansion encroaches on the scope of practice of another health profession;
- the Legislature's intent when establishing the health profession's scope of practice;
- and
- any other information deemed relevant by the Secretary.

If the Secretary determines that a disciplining authority has expanded the scope of practice of a health profession, he or she must attempt to collaboratively resolve the issue with the disciplining authority. If the Secretary fails to resolve the issue collaboratively, he or she may issue a directive staying the action that resulted in the expansion. The stay is effective until 90 days after the last day of the next full legislative session, written order by a court of competent jurisdiction, or rescission by the Secretary, whichever occurs first.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill addresses wrongful scope expansions by disciplining authorities. Only the Legislature has the authority to expand a profession's scope of practice. Health professionals want to practice to the full extent of their education and training, which puts stress on disciplining authorities to expand the profession's scope of practice. Most boards and commissions act responsibly, others do not. A couple disciplining authorities have recently attempted to wrongfully expand their professions' scope of practice to include dry needling. These disciplining authorities are not enforcing the law and have run amok. This bill ensures there are checks and balances in the system. The process created in this bill is transparent and collaborative—it preserves a disciplining authority's ability to clarify scope

of practice and gives affected professions a voice. This bill allows the Secretary of Health to intercede when a disciplining authority has expanded a profession's scope of practice and allows the courts or the Legislature to resolve the issue. Without this bill, disciplining authorities can continue to act without legislative authority, which will endanger the public.

(Opposed) The Legislature has granted disciplining authorities the authority to interpret scope of practice. Professions have the best knowledge of current standards and practices and are best suited to make these interpretations. The interpretations are made in open meetings and with the advice of the Office of the Attorney General. The various boards and commissions contain public members, which ensure the public interest and the good of the patient are adequately considered.

Persons Testifying: (In support) Representative Cody, prime sponsor; Martin Mueller, Department of Health; Leslie Emerick and Curtis Eschels, Washington East Asian Medicine Association; and Dan Dingle, South Sound Acupuncture Association.

(Opposed) Melissa Johnson, Washington Association of Nurse Anesthetists and Physical Therapy Association of Washington.

Persons Signed In To Testify But Not Testifying: None.